

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 91-437-C - ORDER NO. 91-1001✓
NOVEMBER 20, 1991

IN RE: Application of VNI Communications,) ORDER
Inc. for a Certificate of Public) GRANTING
Convenience and Necessity.) CERTIFICATE

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of VNI Communications, Inc. (VNI) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of telecommunications services in the State of South Carolina. VNI's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1990) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed VNI to publish a prepared Notice of Filing and Hearing in newspapers of general circulation in the affected areas one time. The purpose of the Notice of Filing and Hearing was to inform interested parties of VNI's Application and the manner and time in which to file the appropriate pleadings for participation in the proceeding. VNI complied with this instruction and provided the Commission with proof of publication of the Notice of Filing and Hearing.

Petitions to Intervene were filed by Southern Bell Telephone &

Telegraph Company (Southern Bell) and the South Carolina Department of Consumer Affairs (the Consumer Advocate).

A hearing was commenced on Tuesday, October 8, 1991, at 11:15 a.m. in the Commission's Hearing Room. The Honorable Marjorie Amos-Frazier presided. Charles H. Helein, Esquire and Randolph Hunter, Esquire, represented VNI. Carl F. McIntosh, Esquire, represented the Consumer Advocate; Caroline N. Watson, Esquire, represented Southern Bell; and Marsha. A. Ward, General Counsel, represented the Commission Staff.

VNI presented the testimony of Howard Wages in support of its application. Mr. Wages explained VNI's request for certification to operate as a reseller of interexchange telecommunications services in South Carolina. Wages explained that the Company wished to resell AT&T's Software Defined Network (SDN) and is exploring the resale of other service offerings. VNI subscribes to AT&T's service pursuant to the terms and conditions set forth in AT&T's tariffs. All facilities and services are provided by AT&T, but VNI will be responsible for billing, trouble reporting, and customer services. Wages outlined VNI's qualifications, background, and technical capabilities. Mr. Wages explained that VNI operates through independent sales agents who contact users directly. All agents are telecommunication providers and are provided with VNI's tariffs and target markets. Mr. Wages stated that the Company does not intend to offer intraLATA service. VNI has no "on-net to on-net" service in South Carolina, thereby alleviating any potential for intraLATA toll carriage.

Southern Bell presented the testimony of C.L. Addis. Addis testified that Southern Bell opposes the resale of AT&T's Software Defined Network (SDN) services to South Carolina customers, though it does not oppose the granting of a reseller certificate, consistent with past Commission Orders. Addis stated that he did not believe that the blocking or screening of intraLATA calls could be done by AT&T in SDN services. Therefore, Southern Bell should be compensated by VNI, when VNI functions as a reseller, for the unauthorized completion of any intraLATA calls over facilities other than those approved for resale, as ordered by the Commission in Docket No. 86-187-C, Order No. 86-793, issued August 5, 1986.

After full consideration of the applicable law and of the evidence presented by VNI, the Consumer Advocate, Southern Bell and the Commission Staff, the Commission hereby issues its findings of fact and conclusions of law.

FINDINGS OF FACT

1. VNI is incorporated under the laws of the State of Florida, and is headquartered in Atlanta, Georgia.
2. VNI operates as a non-facilities based reseller of interexchange services, and wishes to do so on an interLATA basis in South Carolina.
3. VNI has the experience, capability, and financial resources to provide the services as described in its application.
4. Southern Bell and other local exchange carriers (LEC's) should be compensated for any unauthorized intraLATA calls completed through VNI's service arrangements.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a certificate of public convenience and necessity should be granted to VNI to provide intrastate, interLATA service through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Services, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. That all intrastate intraLATA calls must be completed over intraLATA WATS, MTS, private and foreign exchange lines or any other service of facility based carriers which have been approved for resale on an intraLATA basis. Any intraLATA calls not completed in this manner would be considered unauthorized traffic and the Company will be required to compensate LEC's for any unauthorized intraLATA calls it carries pursuant to Commission Order No. 86-793 in Docket No. 86-187-C.

3. The Commission adopts a rate design for VNI for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate level with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communication Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). VNI shall file maximum rate tariffs within 30 days of the date of this Order which reflect, among other things, the appropriate Commission Regulation

for interest on customer deposits.

4. VNI shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. VNI shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of VNI's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1990).

5. VNI shall file its tariff and an accompanying price list to reflect the Commission's findings within thirty (30) days of the date of this Order.

6. VNI is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to VNI's resale of services, an end user should be able to access another interexchange carrier or operator service provider if they so desire.


8. VNI shall resell the services of only those interexchange carriers or LEC's authorized to do business in South Carolina by this Commission. If VNI changes underlying carriers, it shall notify the Commission in writing.

9. VNI shall file surveillance reports on a calendar or

fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)